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Chairman: Mr. Wenaweser ..... (Liechtenstein)
later: Ms. Leyton (Vice-Chairman) ..... (Chile)

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The meeting was called to order at 10.10 a.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/134, 138, 140, 182, 205 and Add.1, 274, 275, 277, 283, 311 and Add.1, 323, 356, 357, 369, 371, 384, 385, 394, 446 and 484)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/57/230, 284, 290 and Corr.1, 292, 309, 325, 326, 345, 349, 366 and Add.1 and 433; A/C.3/57/5)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/57/36, A/57/446)

1. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar), introducing his report (A/57/290), said that following the release, on 6 May 2002, of Daw Aung San Suu Kyi, General Secretary of the National League for Democracy (NLD), the State Peace and Development Council (SPDC) had declared that a new page had now been turned. SPDC had also reaffirmed its readiness to allow all citizens to participate freely in political activities while ensuring national unity, peace and stability. As Special Rapporteur, his function was to study the human rights aspects of the political transition process under way in Myanmar. He wished to stress that political transition was never a linear process; it tended, rather, to be characterized by divergences, advances and setbacks. In Myanmar's case, although the pace of transition might appear too slow, what mattered was that the transition was continuing. However, although SPDC and NLD maintained regular contact, the substantive political dialogue had not yet begun.

2. During his most recent mission, he had sought to understand better how political prisoners were released and why the pace of releases was so slow. Some 435 political prisoners had been released since January 2001 and the beginning of the confidence-building process between SPDC and NLD. Of those, 155 had been released following Daw Aung San Suu Kyi's release. However, some 1,448 political prisoners remained in prison. He had encouraged SPDC to release all political prisoners before the end of the year, or at the latest before his next mission to Myanmar. The response had been that such a scenario would be unlikely, but that releases would continue to be made. At the current rate of an average of 20 releases per month, it would take about six years for all the political prisoners to be released.

3. As far as he could judge from his meetings with SPDC, prisoners and other persons, it appeared that the political prisoners posed no threat to public order. Those he had met loved their country, supported national reconciliation efforts and were keen to participate in the transition process, as they had been invited to do by SPDC in a statement made on the occasion of the release of the General Secretary of NLD. The immediate and unconditional release of the political prisoners would testify to the sincerity of the SPDC commitment to political transition.

4. Based on the contacts he had made with a number of political prisoners during his three missions, it seemed that mistreatment might have ceased and that the situation of elderly and prominent prisoners had improved. The release of the General Secretary of NLD, which, according to her, had been unconditional, had represented an important step. She could now travel freely within the country and had started to reorganize the party, open new offices, meet her followers and deliver speeches. None of her followers had been subjected to intimidation or harassment. However, the surveillance regime continued, with intelligence services systematically monitoring NLD and all political activities.

5. Security concerns might explain several related phenomena: the process of conditional release of political prisoners; the imprisonment of some 50 individuals since July 2002, several of whom had been harshly treated either during their arrest or interrogation, proof that repression persisted and that freedom of expression, association and information remained restricted; and the fact that NLD was not allowed to publish or disseminate party or political information.

6. He was gravely concerned by credible reports of repeated human rights violations perpetrated by the military and armed groups operating in ethnic minority areas, including cases of sexual violence, forced

relocation or labour, extortion, persecution of Muslims and forced conscription of child soldiers. He had looked into the possibility of investigating such cases further and had received detailed information on investigations that had been carried out into recent cases of rape allegedly committed over the past three months by members of SPDC in Shan State. While recognizing the efforts made, he had pointed out that such investigations, which had been undertaken not by independent parties but by the military and other SPDC members, were neither convincing nor credible. Since a short visit would not have allowed him to conduct a serious assessment, he had declined the invitation to travel to Shan State.

7. During the mission, he had asked SPDC to consider several options for the establishment of a credible mechanism to investigate those and other allegations of human rights violations in ethnic minority areas and to make an early commitment to that effect. The first option, which he preferred, was to establish an independent assessment team under his mandate, responsible for investigating recent allegations of human rights violations against women in Shan State, the recruitment and use of children as soldiers and other allegations of human rights violations in ethnic minority areas. He had informed SPDC that he would be prepared to coordinate the activities of such a team and to seek United Nations support and technical assistance in the context of his mandate. The second option was to establish an international commission of inquiry, which would require a new mandate from the United Nations. The third option was to establish a national inquiry mechanism representing the various parties concerned. NLD had expressed its willingness to participate, as need be, in the activities of such a body, and the United Nations could provide technical assistance if required. He had taken note of a communiqué issued on 4 November 2002 by SPDC in which it reacted favourably to those proposals. He proposed that, as a temporary measure, the International Committee of the Red Cross (ICRC) should be allowed to establish an adequate presence in the areas concerned.

8. **Mr. Kyaw Win** (Myanmar), responding to the Special Rapporteur's introductory statement, said that although legal political parties had not yet gained certain political rights, such as the freedom to publish political journals, his Government was determined to remedy matters during the political transition period, which had only just begun. He stressed, moreover, that although the integrity of the Special Rapporteur was not in question, persons supplying him with information were not always guided by the best intentions.

9. Furthermore, the time needed to complete the transition process and release all "genuine" political detainees could not be calculated using a simple mathematical formula, but would be more likely to depend on the decline of external interference and pressure. It was vital to avoid the pitfall of assuming that his Government was a continuation of the two previous Governments.

10. Although his Government was installing a new political order in which all legal political parties would have a part to play, it was being pressured to hold dialogue predominantly with one political party. The homegrown national reconciliation process did not appear to serve the interests of the separatist insurgents who were funded by the profits of drug-trafficking, or of the self-exiled politicians who risked irrelevance once the United Nations-supported national reconciliation became effective. In that connection, the Special Rapporteur appeared to have been inundated with allegations emanating from pro-insurgent groups in a last-ditch attempt to derail the national reconciliation process.

11. With regard to the accusations against members of the military, his Government had wasted no time in making its own investigations and later requesting the Special Rapporteur to follow suit. It was hardly likely that soldiers and officers committing crimes at the risk of being court martialled would have revealed their identity or service numbers, as alleged. If such unspeakable crimes had been committed, it was surprising that the dissident forces should have waited six years before reporting them. His Government had responded constructively by inviting ICRC and the Centre for Humanitarian Dialogue to visit certain parts of Shan State in order to report on the humanitarian situation in the region and to investigate the allegations of systematic rape. ICRC had accepted the invitation and a team had departed from Yangon on 2 November 2002.

12. The following clarifications might facilitate interpretation of the Special Rapporteur's report: in 2000, Myanmar had been upgraded from the category of countries with "low development" to the "medium

development" category according to the Human Development Index elaborated by the United Nations Development Programme; his Government was able to protect and provide for its population despite the socio-economic difficulties resulting from measures imposed by certain countries; the national health plan gave priority to the control of HIV/AIDS which, according to estimates of the Joint United Nations Programme on HIV/AIDS, was not of epidemic proportions; the 50-year-old armed conflicts with insurgents in certain border areas had not been provoked by his Government, and 17 out of 18 groups had agreed to surrender their arms and participate in Government-established peace programmes; the conflicts were not ethnic, but political in origin, the insurgents having used ethnicity and religion to divide the people of Myanmar.

13. The heterogeneous forces that had once ravaged the countryside and attempted to overthrow the first elected Government were making desperate, well-funded attempts to launch their propaganda programme, which had been established with foreign connivance. Their military operations having failed, they were now using various organizations defending human rights and democracy to win the sympathy and support of foreign Governments and non-governmental organizations. In such circumstances, it was understandable that his Government should proceed with vigilance and caution in the final stages of the political transition period.

14. **Mr. Hahn** (Denmark), speaking on behalf of the European Union, asked the Special Rapporteur how the international community might help to ensure participation of all ethnic groups in the political dialogue. He also wondered whether there had been any new developments in respect of the release of prisoners or their amnesty. He wished to know the Special Rapporteur's viewpoint on the recent, politically motivated arrests. With regard to the lifting of the restrictions imposed on political parties, he wished to know whether the situation had improved or whether, on the contrary, it had deteriorated following the release of the General Secretary of NLD, and wondered if the latter had been able to travel abroad. He asked the Special Rapporteur whether the Burmese Government had given any explanation of the restrictions imposed on other political parties, and whether he believed that the national authorities were sincere in referring to the establishment of a civilian Government. The Special Rapporteur should indicate how the international community might contribute to the establishment of political dialogue and democracy, and how he perceived the role of the main opposition figure, the General Secretary of NLD, in the democratization process.

15. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar), responding to the questions put by the representative of Denmark, said that it was vitally important to invite all ethnic groups in Myanmar to participate in the debate over the country's political future, even though a tripartite dialogue was still essential. The release of the General Secretary of NLD was a most encouraging development, while the beginning of substantive political negotiations between SPDC and NLD — the representatives of which had already had some 100 meetings — would be a first step towards participation of all parts of society. However, those numerous meetings could not yet be said to constitute real political negotiation. With regard to the pace of release of political prisoners, he believed that the Government of Myanmar, probably fearing the consequences of such releases, was attempting to conduct a controlled transition, just like other Governments in similar situations. All the prisoners he had met had expressed confidence in the General Secretary of NLD, whom they considered a reliable interlocutor in the political dialogue with the Government. For his part, he would continue to press for the immediate and unconditional release of all political prisoners. Concerning the restrictions imposed on political parties, according to the General Secretary of NLD and other recently released prisoners, none of them had been subject to reprisals following their release. As for the establishment of a structured dialogue, he did not wish to indulge in speculation, but what mattered most was that contacts between SPDC and NLD should continue. The international community could help facilitate that dialogue by meeting with the parties in question. Delegates could meet with the representatives of Myanmar in their respective countries with a view to persuading them to encourage the dialogue, which was in their own interests and in the interests of the people of Myanmar.

16. **Mr. van der Kwast** (Netherlands), referring to the allegations of rape committed by members of the armed forces, asked whether the Special Rapporteur believed that the Government of Myanmar would take

the required measures and whether he had received any specific information in that connection. He also wondered how the Special Rapporteur and the international community might help to exert pressure on the Burmese Government so that it would permit members of the Office of the United Nations High Commissioner for Refugees (UNHCR) to gain unrestricted access to all parts of the country. The Special Rapporteur should also clarify whether there had been new developments in respect of the access of international humanitarian organizations to vulnerable groups, including displaced persons. Lastly, he wondered how it might be possible to put an end to human rights violations in the context of counter-insurgency operations and forced relocation.

17. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar), responding to the questions put by the representative of the Netherlands, said that he had informed the Government of Myanmar that he was prepared to coordinate an assessment of the situation. He had declined the invitation to visit Shan State since he believed that a two-day visit with the assistance of only two colleagues would have been insufficient; two or three months would have been needed to carry out such an investigation in adequate conditions. He had taken note of the Government of Myanmar's communiqué in which it responded favourably to his proposals in that regard; he should know more over the next few days. With regard to access for members of UNHCR, he had received encouraging reports of UNHCR members having been able to visit 400 villages on the border with Bangladesh, thanks to the cooperation of the Government of Myanmar. He would continue to request full access to all parts of the country. With regard to international humanitarian organizations, he had met several of them, and they had reported difficulties resulting from bureaucratic obstacles. Several non-governmental organizations had also encountered difficulties when they had tried to enter the "black areas" where military operations were conducted and armed groups also operated. He would continue his efforts to persuade the Government of Myanmar of the need for those organizations to be present and for all bureaucratic obstacles to be removed. Concerning human rights violations, it was vital that the necessary investigations should be conducted within Myanmar, not from abroad. The perpetrators must, of course, be punished, but it was also crucial to enable the Government of Myanmar to establish a national mechanism in order to prevent a repetition of such atrocities in the future. Lastly, an impartial assessment should be conducted of military operations and of the activities of armed groups present in the region.

18. **Ms. Dempster** (New Zealand) said that she was concerned by the allegations of rape apparently tolerated by the Government of Myanmar in Shan State. It was vital to open an inquiry and punish the perpetrators, and she would be interested to know the Myanmar Government's reaction to the Special Rapporteur's proposals in that connection. She also wondered whether the Special Rapporteur had managed to make contact with armed opposition groups, such as the Karen National Liberation Army, also accused of human rights violations. Lastly, she wondered whether the Government of Myanmar intended to cooperate more closely with the United Nations.

19. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that he wished to reiterate that it was vital that independent assessment teams, such as those of ICRC, should be allowed to enter zones of armed conflict; he therefore welcomed the cooperation extended by the Government of Myanmar in that regard. He stressed that there could be no double standards for the Government of Myanmar and opposition groups, which were also obliged to comply with customary humanitarian law. There were several encouraging signs with regard to the Myanmar Government's cooperation in combating HIV/AIDS and trafficking in persons and drugs, and in protecting the rights of Muslim communities. He urged the international community to commit itself further to supporting Myanmar along the path towards democracy; what was required was not necessarily increased financial assistance, but, for example, capacity-building or consolidation of civil society.

20. **Mr. Twining** (United States of America) asked whether it was true that rape was more common in border zones, whether the Special Rapporteur planned to investigate the situation of refugees in Thailand and whether a timetable had been established in respect of the investigation into the veracity of the rape allegations.

21. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that since he had decided not to visit Shan State, he was not in a position to provide specific information on the rape issue. Further, he was well aware that it was necessary also to investigate the situation in Thailand, and welcomed the efforts of non-governmental organizations to assess the situation in the refugee camps. Lastly, before even contemplating establishing a timetable, the Government of Myanmar must accept the very principle of an investigation, stipulate its terms of reference during negotiations with him and resolve the issue of how the investigation would be funded with the Office of the United Nations High Commissioner for Human Rights.

22. **Ms. Kang** Kyung-wha (Republic of Korea) said that she understood the Special Rapporteur's reasons for deciding not to visit Shan State for the time being, even if a first visit might have proven useful despite its brevity. She asked the Special Rapporteur whether he expected to receive authorization from the Government of Myanmar to conduct an independent investigation to determine the veracity of the allegations of rape in the region.

23. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that although he hoped that the Government of Myanmar would accept his proposals, he was not in a position to comment further for the time being.

24. **Ms. Nguyen** (Canada) said that she would be interested to know the approximate number of political prisoners in Myanmar, as well as the number of individuals released to date. She wondered whether the Special Rapporteur planned to involve experts on questions of sexual violence in the mechanism for investigating the rape allegations, and what measures he was envisaging to guarantee the security of both witnesses and victims.

25. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that 836 prisoners had been released since January 2001, namely the beginning of the confidence-building phase between SPDC and NLD, including 435 political prisoners and 401 pregnant women or mothers with young children. Of the 435 releases of political prisoners, 155 had taken place after Daw Aung San Suu Kyi's release. Currently, an estimated 1,400 to 1,600 political prisoners remained, a figure accepted by the Government of Myanmar. The 40 or 50 arrests that had been made since May 2002 should not give the impression that no real progress had been made, since all but five of the prisoners in question had been released. If need be, he would indeed consult experts and take all necessary measures to ensure the safety of witnesses. Finally, he was encouraged that none of the prisoners he had met had complained of retaliation.

26. **Ms. Tomar** (India) asked the Special Rapporteur whether he would agree that the time had come to lift the sanctions imposed on Myanmar and become involved on all fronts, including the political and economic, to help improve the situation in the country.

27. **Mr. Pinheiro** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar) said that by "involvement", he did not only have economic assistance in mind, but any assistance provided to Myanmar to encourage its democratization process. He also considered that his mandate did not authorize him to advise the international community on sanctions policies and that it was a matter only for Member States to decide.

28. **Mr. Baum** (Special Rapporteur on the situation of human rights in the Sudan), introducing his report (A/57/326), said that it was based mainly on information he had managed to obtain during his most recent visits to the Sudan, Kenya and Egypt in September and October 2002. He welcomed the adoption of the Machakos Protocol, as well as the resumption of peace talks in October 2002, and commended the United States of America, the Intergovernmental Authority on Development, Norway and the United Kingdom for their significant contributions. He stressed that peace negotiations must be accompanied by a comprehensive ceasefire and supported by mechanisms for the promotion and protection of human rights, including independent institutions at the national level and an effective monitoring system at the international level. In that connection, he hoped that the Government of the Sudan would convey to him its comments on the list of 12 human rights benchmarks which he had prepared.

29. He believed that the human rights situation in the Sudan had not changed significantly, although some areas of progress should be highlighted. It was thus

encouraging that non-governmental organizations were playing an increased role in the country, although it was deplorable that opposition parties, politically active students and representatives of independent newspapers and human rights non-governmental organizations continued to be subjected to harassment. Further, he noted progress with respect to the establishment of an independent national human rights institution, although the security forces and police had attempted to obstruct the process. He regretted that the state of emergency was still in force, that the amendment to the National Security Forces Act had still not been repealed, that the security apparatus was primarily responsible for the occurrence of human rights abuses, that the security forces continued to enjoy impunity, that independent newspapers were still subjected to direct or indirect forms of censorship and that freedom of religion and belief was still not satisfactorily guaranteed. However, he welcomed the signature, on 15 October 2002, of a memorandum of understanding between the Government and the Sudan People's Liberation Movement and Liberation Army (SPLM/A).

30. The return of internally displaced persons was a matter of grave concern. Meanwhile, limited progress had been made in the area of discrimination against women; under a new law, abductions would henceforth be systematically prosecuted, even if little had been done so far to bring guilty parties to justice. The situation of children in the Sudan remained alarming, as did the overall human rights situation, including restrictions to freedom of opinion and expression, speech, assembly and association. He also deplored the stifling of all political opposition in the south of the country and the violations of human rights and international humanitarian law that continued to be perpetrated by SPLM/A in the occupied territories. He had met with SPML/A representatives and discussed his concerns in that regard. He wished to reiterate his appeal to the Government of the Sudan to ratify without further delay the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. During his most recent visit, he had travelled to El-Fashir in northern Darfur; he believed that the special courts there should be abolished since they offered no possibility of defence to individuals on trial. Control over power and resources was at the centre of the conflict, which was only further exacerbated by the oil issue. He believed that the United Nations should become more involved in the Sudan, as he had already explained at a meeting with the Secretary-General.

31. Lastly, human rights should be at the centre of peace talks, and efforts should be redoubled and more resources mobilized to prepare the population for peace and democracy. He wished to stress that no peace initiative would succeed without a long-term, comprehensive and unified approach. He urged all parties concerned to do their utmost to end the suffering of the Sudanese people, who for the first time had the hope of a better life.

32. **Mr. Erwa** (Sudan) said that the Sudan was determined to promote human rights and fundamental freedoms and was ready to cooperate with the Special Rapporteur and other United Nations human rights mechanisms. It had thus not hesitated to respond favourably to the Special Rapporteur's request to visit the country.

33. As a matter of principle, the Sudan was opposed to politicization and the application of double standards with regard to human rights investigations, since the objective was to combat the causes of non-respect for human rights, not confrontation or confusion between fact and fiction.

34. However, it seemed that the approach adopted consisted of criticizing a certain number of countries, all developing countries, rather than carrying out an objective assessment of the human rights situation throughout the world and promoting the emergence of a just world characterized by peace and stability.

35. The concerns expressed by the Special Rapporteur actually related to the conflict in southern Sudan, which had devastating repercussions on the country. His Government had done everything possible to achieve a just and comprehensive peace, and had stressed the need for a comprehensive ceasefire as a prerequisite for negotiations. However, as was well known, the rebels had rejected his Government's appeals for a ceasefire. The situation had, however, evolved recently, with the signing of an agreement on, inter alia, the cessation of hostilities that would facilitate the delivery of humanitarian assistance. The peace process should allow for far-reaching developments in the human rights situation. Therefore, it was important to support the process under way rather than engaging in denunciations and spreading unfounded allegations.

36. Before discussing the contents of the Special Rapporteur's report, his delegation wished to observe that the Special Rapporteur had a specific mandate, which was to submit a report to the General Assembly and the Commission on Human Rights, and that he had exceeded that mandate. The Special Rapporteur had actually divulged the contents of his report at a press conference, before even visiting the Sudan to carry out the research necessary to update it. Such behaviour, which was strange as well as deplorable, revealed that the Special Rapporteur had his own interpretation of the mandate entrusted to him and seemed ready to defend a particular thesis at all cost, convinced that he had a monopoly on wisdom and could make decisions on the Sudan's behalf.

37. At the aforementioned press conference, the Special Rapporteur had also attacked Islam, the religion of the Sudan, claiming that the Shariah, in certain respects, was incompatible with human rights. That irresponsible attitude was offensive to Muslims, whose religion was based on profoundly human values. His delegation therefore categorically rejected the report and demanded that the Special Rapporteur make a public apology.

38. Further, the Special Rapporteur continued to question his Government about the use of oil profits, there too exceeding his mandate and undermining State sovereignty. It should be recalled that several delegations had already protested against the Special Rapporteur's interpretation of his mandate, criticisms that appeared to have been ignored.

39. The Special Rapporteur had been urging his Government to quickly ratify various international agreements. It should be recalled, however, that the ratification of agreements was also a matter of national sovereignty.

40. Concerning information collected by the Special Rapporteur, the latter had on several occasions failed to identify his sources. In places, he had even had recourse to rumour, which only undermined the report's credibility. Moreover, although the Special Rapporteur claimed that very little was known about the human rights situation in areas held by the rebels, there appeared to be ample information available on other parts of the country, testifying to the unbalanced nature of the report.

41. As a further illustration of the approach adopted by the Special Rapporteur, the latter, despite recognizing that there were laws prohibiting excision, had cited a conference at which a gynaecologist had apparently spoken in favour of the practice. He wondered whether it was supposed to be concluded that his Government adopted laws only to amend them on the basis of an opinion expressed at a conference, or that it should restrict freedom of expression. It should be stressed that his Government had made significant efforts to improve the situation of women, who were now active in all areas of public life.

42. One of the most outrageous allegations was that of discrimination based on religion. It should, however, be recalled, that the Special Rapporteur himself had mentioned earlier that the conflict was not based on religion, but was a struggle over power and resources. It should also be recalled that, during his visit, the Special Rapporteur had met many Sudanese people, including Christians, among them the Vice-President.

43. Despite the many problems inherited from the past, which had been exacerbated by an armed conflict dating back to the 1950s, the Sudan was seeking to democratize the whole of society, as the Special Rapporteur himself had recognized. To attain that objective, what was needed was time and perseverance. The Sudan remained ready to cooperate with the Special Rapporteur provided he demonstrated objectivity, but could not accept unfounded allegations or confusion between fact and fiction.

44. **Mr. Baum** (Special Rapporteur on the situation of human rights in the Sudan) said that it was regrettable that the representative of the Sudan was refusing to look to the future and follow up on his recommendations regarding the peace process and the human rights situation. He was surprised by the reference to the press conference, which had taken place in the context of an exchange of views. He had clarified the situation with the Sudanese authorities in Khartoum by explaining that there had been a misunderstanding and that he had never intended any lack of respect towards Islam or any other religion.

45. On human rights issues, he was not prohibited from expressing his opinions in his capacity as Special Rapporteur. In that regard, although it was true that certain human rights violations, such as the bombing of civilians, were linked to the conflict, others were not, such as police misconduct or the use of torture. He was not presenting himself to the Sudan as a judge or a teacher, but in the context of the mandate which had

been entrusted to him, which involved gathering information on the human rights situation in that country. As to his sources, he had met with more than 400 people during the course of one week's visit to Khartoum and was not obliged to reveal them all.

46. He was also surprised that the representative of the Sudan had reopened the debate on the right to development. In his report, he had referred to the United Nations Declaration on the Right to Development and reaffirmed that development was an economic, social and cultural process. The Commission on Human Rights had also stressed the necessity of establishing, at the national level, an enabling legal, political, economic and social environment for the realization of the right to development, and had emphasized the importance of democratic, participatory, transparent and accountable governance, as well as the need for efficient national mechanisms. It was in that context that he had raised the issue of oil profits. Notwithstanding the criticisms he had made, his main concern was to assist the authorities in establishing structures that would allow the problem of human rights violations to be resolved.

47. With regard to female genital mutilation, he had not attributed such practices to any government policy, but had simply recommended that it be combated more actively.

48. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, asked the Special Rapporteur whether he had any specific recommendations on how to involve civil society in the peace and democratization process, the importance of which had been stressed in the report.

49. The European Union welcomed the fact that the Government of the Sudan and the Sudan People's Liberation Army (SPLA) had resumed the Machakos negotiations. Since the negotiations included discussion of human rights issues, the peace agreement might also comprise human rights elements. She would be interested to know whether the Special Rapporteur had any proposals concerning other elements that could be included in the negotiations, as well as the relevant procedure to be followed.

50. The European Union had issued a statement after receiving information concerning the sentencing to death by a special court in the Darfur region of 88 people, at least two of whom had not reached the age of 18 years at the time they had allegedly committed the crimes. She wished to know whether the Special Rapporteur had any additional information concerning that case.

51. She also asked whether the Special Rapporteur had any more detailed information on the areas controlled by SPLA and if he had noticed any signs of democratization in those areas.

52. Lastly, concerning the links between human rights violations and oil exploitation, the Special Rapporteur should indicate whether he possessed up-to-date information on enforced resettlement from oil-producing areas.

53. **Ms. Zhang** Meifang (China) said that China had always attached great importance to the promotion of human rights. In recent years, the Government of the Sudan had made considerable efforts to improve the human rights situation in that country. The international community and China welcomed those efforts, which had resulted, inter alia, in the signature, in July 2002, of the Machakos Protocol with the SPLA. Her delegation regretted, however, that the Special Rapporteur's report did not take account of progress made by the Sudan, and certain elements of the report did not reflect the reality on the ground.

54. **Mr. Kadiri** (Morocco) said that according to the terms of his mandate, the Special Rapporteur must report exclusively to the General Assembly and the Commission on Human Rights. He wondered to what extent the press conference held by the Special Rapporteur in London in August 2002 on the human rights situation in the Sudan was in conformity with the requirements of the mandate. His delegation believed that it was imperative that all measures should be taken to ensure that special rapporteurs did not exceed the limits of their mandates.

55. **Mr. Yagob** (Libyan Arab Jamahiriya) said that the Special Rapporteur's report revealed evident bias, and it contained numerous contradictions and ambiguities. The Special Rapporteur claimed to have received information concerning investigations into human rights violations in the Sudan, but did not name his sources or clarify whether such information had been verified, or was based on mere hearsay.

56. The question of the Sudan's oil profits and military expenditure did not fall within the Special Rapporteur's remit. It was rather a matter within the Sudan's sovereign domain. The report criticized the

Sudanese Government but made no mention of any progress achieved or any positive initiative undertaken by the Sudan.

57. His delegation had acquainted itself with the correspondence addressed to the United Nations High Commissioner for Human Rights. It believed that the comments made at the press conference revealed the Special Rapporteur's bias and lack of objectivity.

58. The use of human rights as a tool to interfere in the internal affairs of the Sudan were part of a wider initiative directed again at the Sudan, which sought, inter alia, to exploit its oil resources.

59. His delegation hoped that the Special Rapporteur would show greater objectivity and be more faithful to reality.

60. **Ms. Khalil** (Egypt) said that an assessment of the human rights situation in a given country should not be used as a pretext to interfere in its internal affairs; it was thus not for the Special Rapporteur to criticize the way in which the Sudan managed its natural resources, or the use to which it put the revenue thereof. The best means of improving the situation was to cooperate instead of criticizing and making arbitrary accusations. Further, disclosing to the press the contents of a report intended for the General Assembly and the Commission on Human Rights before even visiting the country on which the report was based, was unacceptable. It would be interesting to know the Special Rapporteur's real motives in that connection.

61. **Mr. Baum** (Special Rapporteur on the situation of human rights in the Sudan) said that he could not accept being criticized for presenting to the press the contents of a report that had been prepared in March and already considered in Geneva by the Commission on Human Rights. It would have been preferable if his letter to the Sudanese Minister for Foreign Affairs, the reply to the letter, and the letter he had sent to the Chairman of the Commission on Human Rights had been official in character. As to his not naming his sources, a close reading of the report would reveal that he had included the names of tortured persons. Concerning double standards, that expression appeared not to have the same meaning for everyone. He simply considered the situation in the Sudan to be unique, and believed that there was a need to establish a process for the restoration and strengthening of peace and reconciliation in that country based on the participation of civil society, respect for minorities and tolerance, all elements that had been highlighted in his report. In response to the question of how the international community might support the peace and democratization process, he said that it could play a useful role in helping the country to strengthen its capacities at the local community level and in respect of training, particularly of judges and the police. Building stable civil society infrastructure was vital. Lastly, concerning the special courts in Darfur, he could only reiterate his concern over the fate of the many persons sentenced to death without trial. He hoped that the Khartoum Constitutional Court, which was examining some of the cases, would issue new rulings soon; in his opinion, the special courts did not conform to international law.

62. **Mr. Alaei** (Islamic Republic of Iran) said that his Government was not in a position to judge the human rights situation in the Sudan, but fully appreciated that country's efforts to strengthen and stimulate the peace process. The Special Rapporteur was perfectly entitled to mention the right to development in his report, but his interpretation of that right led him to interfere in the internal affairs of the Sudan and to stray from his mandate. Although the Special Rapporteur claimed that the press conference he had given had focused on the contents of his March report, according to available information, it appeared to have related to the current report. In any event, under established practice, special rapporteurs should not give interviews to journalists in view of the sensitive nature of the issues with which they were entrusted. Lastly, concerning paragraph 92 of the report, he wondered what the Special Rapporteur had in mind in recommending the establishment of an international monitoring mechanism without the use of military personnel. He would appreciate clarifications in that regard.

63. **Mr. Amorós Núñez** (Cuba), also referring to paragraph 92 of the report, noted that the Special Rapporteur recommended the establishment of an international monitoring mechanism and wondered whether he had taken proper account of respect for the country's sovereignty. The failure to name sources was to be regretted, since it undermined the credibility of the report.

64. *Ms. Leyton (Chile), Vice-Chairman, took the Chair.*

65. **Ms. Al Haj Ali** (Syrian Arab Republic) said that paragraphs 40 and 100 of the report provided proof of

the Special Rapporteur's interference in the internal affairs of the Sudan.

66. **Mr. Zeidan** (Lebanon) said that his delegation appreciated the difficulty of the task with which the Special Rapporteur had been entrusted, as well as the importance of placing each element of the report in its proper context. The universality of the concept of human rights crossed cultural barriers. It was gratifying that the Special Rapporteur had pointed out that civil society should play a more important role in the peace process. However, if the Special Rapporteur was advocating self-determination, he was exceeding his mandate. Concerning the format of the report, the Special Rapporteur should have adopted a more circumspect and balanced approach, which would have ensured greater objectivity.

67. **Ms. Nguyen** (Canada) said that she would be interested to know how the Special Rapporteur envisaged structuring the mechanism for monitoring respect for human rights. The refusal to grant access to certain areas was not mentioned in the report and she wondered whether an addendum could be produced on that issue.

68. **Mr. Erwa** (Sudan) said that he wished to reassure the Special Rapporteur that he was well aware of the workings of his own Government. He stood by his comments regarding the press conference given by the Special Rapporteur. Although he appreciated the fact that the latter had gone to the trouble of interviewing more than 400 people, he considered it unacceptable for a report to be based on hearsay. He wondered why the issue of the excision of young girls had been raised in paragraph 72 of the report.

69. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, said that she wished to express support for the manner in which the Special Rapporteur had fulfilled his mandate. All special rapporteurs based their reports on a large number of unidentified sources, and that was perfectly normal practice.

70. **Mr. Baum** (Special Rapporteur on the situation of human rights in the Sudan) said that a common definition of the right to development needed to be worked out in another forum, in Geneva, so that the issue would not have to be revisited each year. He regretted that time did not allow him to speak of the Sudan's future development, and urged the international community to assist the Sudan in every possible way, since that country had the largest number of displaced persons in the world.

The meeting rose at 1.10 p.m.